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Before the  
Federal Communications Commission  
Washington, D.C. 20554

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CC Docket No. 94-46

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RM8367 FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )

Amendment of Part 22 of the )  
Commission's Rules to Delete )  
Section 22.119 and Permit )  
the Concurrent Use of Transmitters )  
in Common Carrier and Non-Common )  
Carrier Services )

To: The Commission

**COMMENTS**

PageMart II, Inc. ("PageMart") submits these its comments in connection with the Notice of Proposed Rulemaking ("NPRM"), FCC 94-113 in the above-referenced matter, released June 9, 1994.

**Introduction**

PageMart presently provides one-way nationwide wireless messaging services on 929 MHz exclusive frequencies at over 700 sites. PageMart also is currently proposing expansion of its local area radio common carrier frequencies in California, the District of Columbia, and Illinois. Because of Section 22.119, PageMart will be required to construct two separate transmitter facilities where it has both private carrier paging for regional and nationwide services and radio common carrier facilities for local service, even though one transmission system would have been adequate, due in part to advanced technology used by PageMart.

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## **Background**

On June 9, 1994, the Commission released the NPRM, proposing the deletion of Section 22.119 of the Public Mobile Services Rules and permitting the joint licensing and use of transmitters in the common carrier and private carrier services. The Commission also granted interim waivers of Section 22.119 to Paging Network, Inc., PacTel Paging, Arch Communications Group, Inc., Metrocall, Inc., American Paging, Inc., Mid-Atlantic Co., Inc., and Mobile Media Communications, Inc. during the pendency of this rulemaking. <sup>1/</sup>

## **Discussion**

In the NPRM, the Commission tentatively concluded, because of technological advancements; various offerings of local, regional and national service; the Omnibus Budget Reconciliation Act of 1993 which created a "Commercial Mobile Radio Service" combining Parts 22 and 90 commercial operations; and finally, because of a competitive marketplace, that allowing both common carrier and private carrier channels to operate on a single transmitter would not disrupt or impair service to existing Part 22 subscribers.

The Commission, however, did seek comment on: whether Section 22.119 should be retained to permit the concurrent use of transmitters in the common carrier and non-common carrier services in limited circumstances; whether there were other circumstances in which they should not permit the shared use of Part 22 transmitters; appropriate safeguards to prevent warehousing of exclusively assigned frequencies if the Commission modified or eliminated Section 22.119; and finally, whether two different licensees should share the same transmitter.

PageMart agrees that Section 22.119 should be eliminated entirely, not only because the 929 MHz private carrier paging service and 931 MHz paging service will be combined under the Commercial Mobile Radio Service in 1996, but because the public interest would be served by adding economic efficiencies. Use of existing Part 90 transmitters will allow service to commence quickly on Part 22 and vice versa, because

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<sup>1/</sup> PageMart requested a waiver of Section 22.119 of the Commission's Rules on June 15, 1994.

carriers will not need to construct dedicated transmitters until additional capacity is necessary. Construction of separate PCP and RCC transmitters creates unnecessary costs which will be reflected in higher subscriber rates. Thus, the use of constructed transmitters during a system build-out would result in the savings of thousands of dollars of construction and monthly operating expenses, which can be passed on to customers.

The public interest is served by allowing a carrier to utilize transmitter facilities already in place or to construct only one transmitter facility which can be used to provide both Part 90 and Part 22 services. As such, carriers can more efficiently construct their regional and local systems, thereby allowing them to offer service earlier and at lower rate to its subscribers, as well as reduction of environmental concerns relating to numerous transmitters at one location. Accordingly, PageMart supports the Commission regarding the elimination of §22.119 of the Rules.

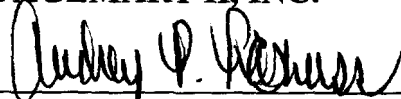
PageMart also submits that to allow carrier-to-carrier flexibility two different licensees should be allowed to share the same transmitter.

### **Conclusion**

PageMart II, Inc. respectfully requests that the Commission take these comments into consideration in connection with the proposed rulemaking.

Respectfully submitted,

**PAGEMART II, INC.**



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